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HENKEL CORPORATION
2500 RENAISSANCE BLVD
STE 200
GULPH MILLS, PA 19406

EXAMINER

GRAY, LINDA LAMEY

| ART UNIT | PAPER NUMBER |
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1734

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,861

Applicant(s)

KELDERS ET AL.

Examiner

Linda L Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, and 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. **Claims 12-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.**

Claim 12, "the tape" (L 28) lacks antecedent basis.

Claim Rejections - 35 USC § 102

3. **Claims 1, 3-8, 10, 12-14 and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Taylor (US 2,584,065).**

Claims 1 and 12, Taylor teaches an apparatus for dispensing roll 7 of material 8 including an enclosable housing having a dispensing end, as shown in Figure 5, and a hinge end, as shown in Figure 6. The apparatus includes roll-holding piece 1 for holding roll 7 of material 8 having – a bottom and two opposing sidewalls and a discharge end, cover piece 2 having – a top and two opposing side walls and a discharge end, hinge assembly 3 for joining pieces 1 and piece 2 at the hinge end where assembly 3 permits opening of the housing while piece 2 and piece 1 remain connected by assembly 3, applicator 24 located proximate the dispensing end for applying material 8 to a substrate, a discharge opening for material 8 located proximate to the dispensing end, and cutter member 23 located proximate the dispensing end for cutting material 8 (c 2, L 5, to c 4, L 7).

With respect to the limitation that the top of the cover piece has at least one depression for placement of a finger, Figure 2 demonstrates a depression where one may place a finger (i.e., thumb) on piece 2, i.e., the area between both ends of piece 2 in front of roller 9. Specifically, see column 3, lines 44-50, where Taylor recites an opening in cover 2 for placement of a finger.

With respect to the limitation of the material being a tape, this limitation does not provide a structural limitation to the apparatus claimed. Taylor teaches material 8 to be tape, however.

Claims 3 and 12, the apparatus includes a latching assembly having opposing latching shoulders 25 extending from the bottom of piece 1 for securing piece 1 to piece 2. **Claims 4 and 12**, applicator 24 is located on piece 2 proximate a discharge end of piece 2, and applicator 24 is stationary on piece 2. **Claims 5 and 12**, the discharge opening is located between applicator 24 and a discharge end of piece 1. **Claims 6 and 12**, member 23 is located on piece 2 proximate the discharge end of piece 2. **Claim 10**, in Figure 3 demonstrates that the sidewalls of cover 2 are depressed on both sides for placement of one's finger and/or thumb. **Claim 13**, Figures 1 and 6 demonstrate that the exterior surface of piece 1 has one or more ridges along a bottom area. Should material 8 come in contact with the ridges, adherence would be prevented with the area where the ridges are present. Surface roughening is a well-known alternative to ridges though such is not necessarily required by the pending claims. **Claim 14**, Figure 3 demonstrates that the sidewalls of cover 2 are depressed on both sides for placement of one's finger and/or thumb, i.e., depressed in that the edges of the top are in a different plane than the bottom edges of the two sides.

Claim 16, Taylor teaches a method for dispensing roll 7 of material 8 including providing an apparatus for dispensing roll 7 of material 8 wherein the apparatus includes an enclosable housing having an end, as shown in Figure 5, and a hinge end, as shown in Figure 6. The apparatus also includes roll-holding piece 1 for holding roll 7 of material 8 having a discharge end, cover piece 2 having – a top and two opposing sidewalls and a discharge end, hinge assembly 3 for joining pieces 1 and piece 2 at the

hinge end where assembly 3 permits opening of the housing while piece 2 and piece 1 remain connected by assembly 3, applicator 24 located proximate the dispensing end for applying material 8 to a substrate, a discharge opening for material 8 located proximate to the dispensing end, and cutter member 23 located proximate the dispensing end for cutting material 8. The method includes mounting roll 7 of material 8 in piece 1 of the housing and applying material 8 to a substrate by pressing material 8 onto a substrate using applicator 24.

With respect to the limitation that the top of the cover piece has at least one depression for placement of a finger, Figure 2 demonstrates a depression where one may place a finger or thumb on piece 2, i.e., the area between both ends of piece 2 in front of roller 9.

Claim 17, the mounting of roll 7 of material 8 is carried out in a manner so that material 8 extends through the discharge opening and at least partially against applicator 24 when the housing is closed. **Claim 18**, the method includes cutting material 8 with member 23 to separate roll 7 of material 8 from the material 8 applied to the substrate. **Claim 19**, material 8 is pressure sensitive adhesive tape. **Claim 20**, the dispenser is held in the hand during the applying of material 8 to the substrate.

Claim Rejections - 35 USC § 103

4. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor in view of Link (US 3,895,059).

Claims 11 and 15, Taylor does not teach the bottom of piece 1 to have one or more feet for resting the apparatus on a surface.

Link teaches a hand-portable tape dispenser having legs on the bottom, see Figures 9-11.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Taylor that piece 1 have one or more feet because Link indicates in the same art the presence of feet on the bottom of a tape dispenser where such in Taylor would allow on to stand the apparatus steadily upon a surface in a position ready for gripping for immediate use of the apparatus.

5. Claim 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taylor.

***Claim 7,** Taylor does not teach the interior surface of the bottom of piece 1 have one or more ridges to prevent material 8 from adhering thereto.*

It is conventional to provide ridges along the surfaces where a roll of tape is passing thereby to keep the adhesive on the tape from adhering thereto should contact occur, and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in that the interior surface of the bottom of piece 1 have one or more ridges to prevent material 8 from adhering thereto which would interfere with the application process.

Surface roughening is a well-known alternative to ridges though such is not necessarily required by the pending claim.

Claim 8, Figures 1 and 6 of Taylor demonstrate that the exterior surface of piece 1 has one or more ridges along a bottom area. Should material 8 come in contact with the ridges, adherence would be prevented with the area where the ridges are present.

Response to Arguments

6. Applicant's arguments filed 8-6-03 have been fully considered but they are not persuasive.

With respect to the limitation that the top of the cover piece has at least one depression for placement of a finger, Figure 2 demonstrates a depression where one may place a finger (i.e., thumb) on piece 2, i.e., the area between both ends of piece 2 in front of roller 9. Specifically, see column 3, lines 44-50, where Taylor recites an opening in cover 2 for placement of a finger. It granted that contact with roller 9 will occur; however, such is not restricted by the pending claims.

For claim 14, Figure 3 demonstrates that the sidewalls of cover 2 are depressed on both sides for placement of one's finger and/or thumb, i.e., depressed in that the edges of the top are in a different plane than the bottom edges of the two sides.

The rejections over Pearson are withdrawn in that Pearson does not teach the roll holding piece and the cover piece to each have two opposing sidewalls. See Figure 1 where the roll holding piece and the cover piece each have only one sidewall such that the pieces can be joined as in Figures 2 and 4.

Conclusion

7. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit 1734

8. Any inquiry concerning this communication or earlier communications should be directed to Examiner Linda L. Gray at (703) 308-1093, Monday-Friday from 6:30 am to 3:30 pm. The necessary fax numbers are (703) 872-9310 and (703) 872-9311.

llg

October 9, 2003

Linda L. Gray
LINDA GRAY
PRIMARY EXAMINER